

MINUTES
OF
THE UTAH RADIATION CONTROL BOARD

April 4, 2008

Department of Environmental Quality, DEQ Building #2

Conference Room 101

168 N 1950 W

Salt Lake City, Utah 84114-4850

BOARD MEMBERS PRESENT

Stephen T. Nelson, Ph.D., Acting Chair
Dane L. Finerfrock, Executive Secretary
Scott Bird
Frank D. DeRosso, MSPH, C.I.H.
Christian K. Gardner
Elizabeth Goryunova, M.S.
Peter A. Jenkins, M.S., CHP
Joette E. Langianese, Commissioner –
 Attended by Conference Call
Joseph K. Miner, M.D., MSPH
Gregory G. Oman, D.D.S., B.S.
John W. Thomson, M.D.

PUBLIC

Judy Fahys, Salt Lake Tribune
Charles Judd, Cedar Mountain
 Environmental, Inc.
Romaine Marshall, EnergySolutions
James O’Neal, Citizen
Tye Rogers, EnergySolutions
Dan Shrum, EnergySolutions

BOARD MEMBERS ABSENT/EXCUSED

Kent J. Bradford, P.G., Chair
Patrick D. Cone
Richard W. Sprott, DEQ Director

**DRC STAFF/OTHER DEQ MEMBERS
PRESENT**

Edith Barker, DRC Staff
Craig Jones, Section Manager
Laura Lockhart, Attorney General’s Office
Yoli Necochea, DRC Staff
Fred Nelson, Attorney General’s Office
Raymond Nelson, DRC Staff
Loren Morton, Section Manager
Bill Sinclair, DEQ Deputy Director
Donna Spangler, DEQ/Office of Policy and
 Planning

GREETINGS/MEETING CALLED TO ORDER

The Utah Radiation Control Board convened in the Department of Environmental Quality (DEQ), Conference Room 101, 168 North 1950 West, DEQ Bldg. #2, Salt Lake City, Utah. Stephen T. Nelson, Acting Chair, called the meeting to order at 2:10 p.m. (after some minor problems with the recording equipment). He welcomed the Board Members and the public. Stephen T. Nelson, Acting Chair, indicated that if the public wished to address any items on the agenda, they should sign the public sign-in sheet. Those desiring to comment would be given an opportunity to address their concerns during the comment period.

I. APPROVAL OF MINUTES (Board Action Item)

a. Approval of the Minutes for March 7, 2008 Board Meeting

Stephen T. Nelson, Acting Chair, asked the Board for corrections to the minutes from March 7, 2008. There were no corrections to the minutes.

MOTION MADE BY SCOTT BIRD TO APPROVE THE MINUTES.

MOTION SECONDED BY CHRISTIAN K. GARDNER.

MOTION CARRIED AND PASSED UNANIMOUSLY

II. RULES (Board action item)

a. Proposed Rule R313-12-111, "Submission of Electronic Copies"

Craig Jones, Section Manager, informed the Board that this was a Board Action Item. He asked for the Board's approval of the effective date of April 11, 2008. This change involves Rule 313-12-111, "Submission of Electronic Copies."

Mr. Jones reminded the Board that information about the rule was first presented at the October 5, 2007 Board Meeting, and a public comment period was held. There were comments that the Division received on the rule during the comment period. At the February 1, 2008 Board Meeting, information about the comments and changes to the proposed rule were orally presented before the Board. The Board approved the filing of the changes to the proposed rule.

The second filing was subject to another 30-day public comment period. The comments have been summarized and presented to the Board Members through an electronic email. The Board should be aware of what the comments on the rule were and the Division's response to the comments.

RECOMMENDATION:

The Executive Secretary recommended that the Board approve the changes to the proposed rule, and that the Board establish April 11, 2008

as the effective date.

Stephen T. Nelson, Acting Chair, asked the Board Members if they had any questions for Mr. Jones. There were no questions from the Board Members. Stephen T. Nelson, Acting Chair, asked for a motion to approve the rule.

MOTION MADE BY SCOTT BIRD TO APPROVE THE CHANGES TO RULE, R313-12-111 AND TO MAKE APRIL 11, 2008 THE EFFECTIVE DATE FOR THE RULE.

MOTION SECONDED BY ELIZABETH GORYUNOVA.

MOTION CARRIED AND PASSED UNANIMOUSLY

III. RADIOACTIVE MATERIALS LICENSING/INSPECTION (No Items)

IV. X-RAY REGISTRATION/INSPECTION (No Items)

V. RADIOACTIVE WASTE DISPOSAL (Board Action Item)

a. Notice of Further Proceeding: Appeal of the *EnergySolutions* License Renewal

Fred Nelson, Attorney General's Office, informed the Board that the Executive Secretary issued a license renewal to *EnergySolutions* on January 25, 2008. Last Friday on March 28, 2008, the Board received an appeal of the license renewal action granted by the Executive Secretary.

Fred Nelson said that the Board Members were each provided with documents that constitute Cedar Mountain's Appeal. He said prior to the start of the Board Meeting, the Board Members were given a copy of the "Draft Notice of Further Proceedings." He said that discussions with the parties regarding the language on the "Draft Notice of Further Proceedings" were completed this week. He said the Board will be asked to approve the Notice of Further Proceedings today, April 4, 2008.

Fred Nelson explained that an action made by the Executive Secretary can be appealed under the State of Utah Administrative Proceedings Act through an Adjudicated Hearing (a formal hearing before the Board). The Utah Administrative Procedures Act provides that the Board has to respond to the appeal within 30-days. The Board can either simply reject the appeal, or the Board can elect to hear it.

Fred Nelson said that under the Utah Administrative Procedures Act parties to the proceeding would automatically include the Executive Secretary and the company. Someone who is challenging an action of the Executive Secretary, other than the company, must ask to intervene.

Cedar Mountain has provided a basis for their legal interest to the Board, and they have asked the Board to grant their Petition to Intervene.

Under the Utah Administrative Procedures Act the Executive Secretary and the company have 30-days from the time that the appeal is filed to answer the Petition to Intervene. The request was filed at the end of last week and 30-days from the request will be April 30, 2008.

Fred Nelson informed the Board that he had discussed this with the parties, and they have set the date of May 6, 2008 for the Executive Secretary and EnergySolutions to respond to Cedar Mountain's Petition to Intervene. The response from the Executive Secretary and EnergySolutions should be due within 30-days of the Board's granting the Petition to Intervene. The Board needs to establish a schedule for the Executive Secretary to put-together an Administrative Record. Cedar Mountain Environmental Inc. will have until May 22, 2008 to file a reply. At the June 6, 2008 Board Meeting, the Board will hear Cedar Mountain's Petition to Intervene.

Fred Nelson explained that the statute requires the Board to appoint a Presiding Officer. He said that, traditionally, the Chair of the Board is appointed as the Presiding Officer. The Presiding Officer will not decide the matter or make substantive decisions, but will simply deal with procedural issues.

Fred Nelson informed the Board that this was a preliminary action to approve the "Notification of Further Proceedings" and to establish dates to hear the appeal.

Questions by the Board:

Stephen T. Nelson, Acting Chair, asked if the June 6, 2008 Board Hearing would be to hear the issue of "standing?"

Fred Nelson, Attorney General's Office, answered that it would be.

Stephen T. Nelson, Acting Chair, asked the Board, if they had any further comments or questions.

Elizabeth Goryunova asked if the Executive Secretary's decision on May 6, 2008 would be incorporated into the Executive Secretary's response.

Fred Nelson explained that the Board would receive a packet for the June 6, 2008 Board Meeting, and the Board Members would have the original Statement of Basis for the "Petition to Intervene." The Board would also have all of the responses of the company and all of the responses of the Executive Secretary. If Cedar Mountain Environmental Inc. replies to the

responses, the Board will also have this.

Fred Nelson explained that the reason for the May 22, 2008 response deadline was for the Board to have time to review the responses prior to meeting.

Stephen T. Nelson, Acting Chair, said that he would be on the north shore of Oahu, Hawaii on May 6, 2008 collecting groundwater. If approved, he asked if the Notice of Further Proceedings would require the signature of Kent J. Bradford, or if Fred Nelson wanted him to sign it on behalf of Kent J. Bradford?

Fred Nelson said that Stephen T. Nelson could sign it on Kent J. Bradford's behalf.

Stephen T. Nelson, Acting Chair, called for a vote from each Board Member. The vote was as follows:

Christian K. Gardner – Yes
Peter K. Jenkins, M.S., CHP – Yes
Elizabeth Goryunova, M.S. – Yes
John W. Thomson, M.D. – Yes
Stephen T. Nelson, Ph.D., Acting Chair – Yes
Joseph K. Miner, M.D., MSPH – Yes
Gregory G. Oman, B.S., DDS – Yes
Frank D. DeRosso, MSPH, CIH – Yes
Scott Bird – Yes
Joette E. Langianese – Yes, by Conf Call.

Total Voting Member's: 10

Vote was unanimous.

MOTION MOVED BY JOSEPH K. MINER TO APPROVE THE NOTIFICATION OF FURTHER PROCEEDINGS.

MOTION SECONDED BY ELIZABETH GORYUNOVA.

MOTION CARRIED AND PASSED UNANIMOUSLY

Stephen T. Nelson, Acting Chair, said the vote was unanimously in favor of approving the "Notification of Further Proceedings." He said the schedule was set for the parties to communicate with one another and to file their pleadings. The Board will hear the matter at the June 6, 2008 Board Meeting.

Fred Nelson, Attorney General's Office, reminded the Board that this was an adjudicated proceeding, and that the Board should not discuss it with the Executive Secretary or with any of the other parties. He said the Board would hear it, as a first impression, at the hearing.

VI. URANIUM MILL TAILINGS UPDATE (No Items)

VII. OTHER DIVISION ISSUES (No Items)

VIII. PUBLIC COMMENT

James O'Neal, Citizen, expressed his appreciation to the Board for giving him the opportunity to discuss his concerns. He said the general public was "very Radisson" about radioactive waste being brought into Utah. He said the State of Utah does not need anything negative, and he said there was not anything positive about importing radioactive waste into the State.

Mr. O'Neal said that *EnergySolutions* was rapidly growing geometrically. He asked the Board to consider everything *EnergySolutions* does very carefully--such as *EnergySolutions* using advanced technology to compress waste material. He said compressing the waste material increases the radioactivity in each unit volume. He said that he was also concerned about *EnergySolutons* importing European waste into Utah. He said there is a lot of nuclear waste in Europe, and Europe does not have a place to dispose of it. He said bringing nuclear waste into Utah for disposal from other countries sets a bad precedent. Mr. O'Neal said that he appreciated the fairness and honesty of the Board's proceedings. He asked the Board to consider his comments as a citizen of the State and as a representation of the general public's beliefs.

IX. OTHER ISSUES (No Items)

Next Scheduled Board Meeting: May 2, 2008, DEQ Bldg #2, Conference Room 101, 168 North 1950 West, Salt Lake City, Utah, 2:00 – 4:00 P.M.

THE BOARD MEETING ADJOURNED AT 2:27 P.M.